

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Kevin J. KAYSER
John J. KILBANE II

Serial No.: 10/086,105

Filing Date: 28 February 2002

Title: SYSTEM AND METHOD FOR GENE
EXPRESSION IN THERMUS STRAINS

Group No.: 1652

Examiner:
Fronda, Christian L.

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

This communication is being filed in response to the Office Action mailed 02 December 2004 wherein Claims 1-32 of the subject application have been indicated to be subject to a restriction and/or election requirement. The Examiner indicates that restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I Claims 1-14, drawn to a method for making carotene pigments,
classified in class 435, subclass 67;

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

28 December 2004

28 Dec 2004
Date

Mark E. Fj
Signature

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Group II Claims 15-24, drawn to a *Thermus* culture, classified in class 435, subclass 252.3; and

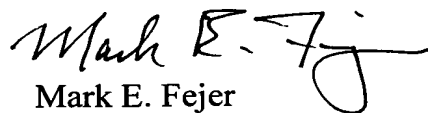
Group III Claims 25-32, drawn to a DNA molecule, classified in class 536, subclass 23.1.

The Examiner indicates that the *Thermus* culture of Group II and the DNA molecule of Group III are patentably distinct products, that Group I and Group II are related as product and process of use, and that Group I and Group III are related as product and process of use.

In response to this requirement for restriction, Applicants hereby elect to prosecute the invention of Group I, Claims 1-14, drawn to a method for making carotene pigments. Consequently, Applicants hereby withdraw Claims 15-32 from further consideration.

Applicants respectfully urge that the subject application is now in condition for examination and, thus, respectfully request early allowance.

Respectfully submitted,



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